Calendar No. 333

102D CONGRESS *1st Session*	SENATE	REPORT 102-221

PUBLIC TELECOMMUNICATIONS ACT OF 1991

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT
OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1504

NOVEMBER 19 (legislative day, NOVEMBER 13), 1991.—Ordered to be printed

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REPORT

[To accompany S. 1504]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1504) to authorize appropriations for public broadcasting, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

S. 1504, as reported, authorizes appropriations for the Corporation for Public Broadcasting (CPB) and the Public Telecommunications Facilities Program (PTFP). For the CPB, the bill authorizes $310 million for fiscal year (FY) 1994, $375 million for FY 1995, and $425 million for FY 1996. For the PTFP, S. 1504 authorizes $42 million each year for FY 1992 through 1994. In addition, S. 1504 makes additional changes in the public broadcasting provisions of the Communications Act of 1934 (1934 Act) to facilitate the delivery of quality programming to the public.

BACKGROUND AND NEEDS

The CPB is a private nonprofit corporation organized under the laws of the District of Columbia. With the passage of the Public Broadcasting Act of 1967 (1967 Act) (Public Law 90-129), Congress authorized the establishment of the CPB to foster the growth and development of high-quality programs for and by public radio and television broadcasters. The CPB is to act as the public trustee for funds appropriated pursuant to the provisions of the 1934 Act which were originally added by the 1967 Act, and it is the principal

entity accountable to Congress for the expenditure of such appropriated funds. The CPB's responsibilities include encouraging the full development of public telecommunications services for the American people.

In this regard, the changes made by the reported bill to the public broadcasting provisions of the 1934 Act are intended to enhance the ability of public broadcasting to provide quality national and local programming from diverse sources to the entire panoply of the American people and to assist with the expansion of service to unserved and underserved audiences. Over the past 20 years, the Federal investment has enabled the CPB and the public broadcasting system to build a nationwide service reaching 86 percent of the American people with a public radio signal and 93 percent with a public television signal.

The importance of public broadcasting continues to grow. The United States faces significant educational, informational, and social challenges in this decade. In the present economic context, public broadcasting represents a compelling, cost-effective means of encouraging local communities to communicate on and deal with these issues in innovative ways.

In this regard, public broadcasting already has demonstrated its ability to address effectively a variety of educational and community problems. Testimony received by the Committee at its July 23, 1991, hearing provided examples of the wide range and effectiveness of public broadcasting's services to the educational and informational needs of local communities.

The Committee believes that additional resources should be provided to the public broadcasters so that they may build on the experience and infrastructure they now have in place. The public television stations and the CPB both have committed themselves to an expanded role in education (including the community outreach programs that are necessary for a comprehensive approach), and they already have demonstrated an ability to achieve results.

The Committee expects that the efforts of the CPB and industry will reflect an expansion of already successful activities as well as innovative new programs. In this regard, the Committee notes specifically that the CPB and the public radio and television stations have expressed a commitment to pursuing community outreach programs and that public television stations intend to place special emphasis on adult illiteracy, development of positive programming for preschoolers, development of new instructional programming for elementary and secondary schools specifically targeted to national educational goals, and development of programming and community activities that will increase citizen awareness of critical issues and participation in the electoral process.

In particular, public radio stations are playing an increasingly important role in their communities. Through its news and information programming, public radio has embarked on a new mission to present a more inclusive vision of American culture so as to respond effectively and creatively to the growing diversity of the Nation. Public radio is providing a forum for discussion of important issues and often serves as the nexus of outreach activities to various segments of the community.

In addition to focusing with public television on educational and social issues, public radio is committed to pursuing special challenges. In partnership with the CPB, public radio must pursue vigorously a course of action that both supports the existing base of stations and extends public radio service to 95 percent of the population by the end of the decade, increasing the diversity of that service and the audiences served. The goal of providing ways for minority stations, stations in rural areas, and those in markets with a limited economic base to receive increased CPB support can be accomplished within current statutory provisions.

Legislative History

S. 1504, legislation authorizing funding for the CPB and the PTFP, was introduced on July 19, 1991, by Senator Inouye with Senators Hollings, Stevens, Bentsen, Kerry, and Burns as cosponsors. The Communications Subcommittee held a hearing on July 23, 1991, and 11 witnesses testified. On October 3, 1991, in open executive session, the Committee ordered reported favorably, without objection, an amendment in the nature of a substitute to S. 1504.

Summary of Major Provisions

The bill as reported would add to new findings regarding public broadcasting to section 396(a) of the 1934 Act. First, Congress finds that public television and radio stations constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through outreach and community programs. Second, Congress finds that it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all available telecommunications distribution technologies.

In addition, the reported bill authorizes funding for the CPB at a level of $310 million for FY 1994, $375 million for FY 1995, and $425 million for FY 1996. The reported bill also would provide authorizations for each year of $42 million for FY 1992, 1993, and 1994 for the PTFP.

Also, the legislation includes seven other amendments: (1) the reported bill reduces the number of members of the Board of Directors of the CPB from 10 members to 9, in order to provide for an uneven number of directors, and extends their terms from 5 to 6 years; (2) the reported bill eliminates a redundant requirement for community licensees to maintain community advisory boards in addition to other sources of community input; (3) the reported bill requires the CPB to include in its annual report a listing of organizations, procedures, and programming funded by CPB programming grants; (4) the reported bill eliminates the financial and accounting restrictions imposed on National Public Radio (NPR) in section 396(*l*)(4) which by their terms are no longer effective; (5) the reported bill reinstates the requirement that the periodic review of the community service grant (CSG) criteria be conducted through a process of consultation with public broadcasting licensees; (6) the reported bill creates an alternative to annual audits of entities for which such an audit would be unduly expensive; and (7) the report-

ed bill permits the officers of the CPB to receive compensation for service on outside boards, subject to CPB Board approval and other limitations.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 24, 1991.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C. 20510

Dear Mr. Chairman: As requested, the Congressional Budget Office has prepared the enclosed cost estimate for S. 1504, the Public Telecommunications Act of 1991, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on October 3, 1991. Enactment of S. 1504 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

Congressional Budget Office—Cost Estimate

1. Bill number: S. 1504.
2. Bill title: Public Telecommunications Act of 1991.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, on October 3, 1991.
4. Bill purpose: The purpose of this bill is to authorize appropriations for public broadcasting.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996
Planning and construction:					
Authorizations	42	42	42		
Estimated outlays	5	24	32	37	18
Public broadcasting fund:					
Authorizations			310	375	425
Estimated outlays			310	375	425

The cost of this bill falls in budget function 500.

Basis of estimate: S. 1504 authorizes an appropriation of $42 million in each of fiscal years 1992, 1993, and 1994 to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunication facilities. For the Public Broadcasting

Fund, there is authorized an amount equal to 40 percent of the total amount of non-federal support received by public broadcasting entities during the fiscal year second preceding each such fiscal year; except that the amount is not to exceed $310 million in 1994, $375 million in 1995, and $425 million in 1996. For purposes of this estimate CBO assumes that non-federal support would be sufficient to generate the maximum federal support levels. Estimated outlays assume full appropriation of authorizations and reflect the current spending patterns of the existing programs.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Because this bill would not affect direct spending or receipts, there are no pay-as-you-go implications.

7. Estimated cost to State and local government: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Karen Watkins.

11. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

The reported bill provides an authorization of appropriations for FY 1994 through 1996 for the CPB and for FY 1992 through 1994 for the PTFP. The authorization levels are to enable the CPB to expand the number of radio stations that receive assistance. In addition, the authorization is to enable public broadcasting to increase the amount of programming available to American citizens. Therefore, this legislation ensures continued public broadcast service and is intended to result in a significant increase in the number of persons benefiting from this reauthorization.

ECONOMIC IMPACT

The bill, as reported, authorizes appropriations for the CPB of: $310 million for FY 1994; $375 million for FY 1995; and $425 million for FY 1996. In addition, it authorizes appropriations for the PTFP of $42 million annually for FY 1992 through 1994. These funding levels are modest and are not expected to have an inflationary impact on the Nation's economy.

PRIVACY

The reported bill will not have any adverse impact on the personal privacy of the individuals affected.

PAPERWORK

The reported bill reauthorizes the existing CPB and PTFP programs. Therefore, there should be no changes in the paperwork requirements associated with these programs.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This section provides that the short title of the reported bill is the "Public Telecommunications Act of 1991."

SECTION 2—PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION

To ensure that the public television and public radio infrastructure keeps pace with changing technology, the reported bill maintains a funding authorization for the PTFP and has authorized for each year $42 million for FY 1992, 1993, and 1994. The estimate of future funding requirements was based on a survey of engineering needs and the recent history of the number of meritorious applications which the National Telecommunications and Information Administration has been unable to fund in recent years. However, responding to fiscal realities, the authorized level is substantially less than the level of support needed to meet the demands of the program. Nevertheless, the authorization levels would sustain the public-private partnerships which fund current public broadcasting and community services provided by the Nation's public television and radio stations.

SECTION 3—CONGRESSIONAL DECLARATIONS OF POLICY

This section amends section 396(a) of the 1934 Act to add two new paragraphs expressing new declarations of policy stating that: (1) public television and radio stations serve as an important medium to address national concerns and facilitate the resolution of local problems through community and outreach programs; and (2) the public interest would be served by ensuring that all Americans have access to public telecommunications services through a variety of technologies.

With respect to the first new declaration of purpose, public broadcasting is more than just television and radio programs. At the heart of public broadcasting are local television and radio stations, reaching 98 percent of all American homes with public television programming and over 86 percent of all homes with public radio. These local stations can and do engage the population in thought-provoking dialog on solutions to the Nation's problems, using town meetings, local and national television and radio programming, computers, interactive videodiscs, audio channels, and books—whatever technologies or methods are most effective.

Public broadcasters have used effectively television and radio programs as the basis for community outreach on social, educational, and community issues. The areas in which public television and radio have coalesced community action in recent years include drug abuse, the urban crisis, the disadvantaged, health, preservation and protection of the environment, strengthening of the family structure, and improvement in education.

Public television and radio stations constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community outreach programs and services. In addition, local public television and radio stations can bring together organizations, businesses, State and local agencies, parents, and other individuals to examine problems and seek solutions through the use of electronic media.

Accordingly, the reported bill adds a new paragraph (8) to section 396(a) of the 1934 Act to reinforce the role of public television and radio stations as valuable community informational and educational resources.

With respect to the second new declaration of purpose, the Federal Government recognized the need for noncommercial broadcasting as early as 1945 when the Federal Communications Commission (FCC) set aside 20 percent of the FM band for use by noncommercial educational radio stations, and in 1952 when 242 channels were set aside in the spectrum by the FCC for the exclusive use of public television. The utilization of reserved spectrum for public service programming has grown over time. Today, a full 32 percent of all currently assigned television channels is assigned to noncommercial, educational television, and approximately 650 public radio stations comprise one-half of 1 percent of the FM band.

Over the years, Congress repeatedly and unequivocally has supported public telecommunications services. Congress first provided funds for public television stations in 1962 through the Educational Facilities Act. Later, in the 1967 Act, Congress specifically found that "it furthers the general welfare to encourage public broadcasting services" and that "it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will effectively make public broadcasting services available to all of the citizens of the United States."

Accordingly, the reported bill adds a new paragraph (9) to section 396(a) of the 1934 Act, whereby Congress finds that it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate, available telecommunications distribution technologies. Through this finding, Congress would affirm a policy of broad access to public broadcase services in order to advance the compelling governmental interest in increasing the amount of educational, informational, and local public interest programming available to the Nation's citizens.

SECTION 4—BOARD OF DIRECTORS

Subsection (a) amends section 396(c)(1) of the 1934 Act, which provides for 10 members to be on the Board, by reducing the number of Board members to 9 (effective March 26, 1996 under section 12 of the reported bill) so that the Board would be comprised of an odd number of members. This subsection also reduces the number of members that can be from the same party from 6 to 5 members to correspond to the reduction in the number of Board members.

Subsection (b) amends section 396(c)(5) of the 1934 Act, to increase the term of each Board member from 5 to 6 years, and sub-

section (c) staggers the terms so that 3 terms expire every 3 years. Currently the terms of 5 members expire at the same time. In addition, subsection (b) provides that: when a Board member's term expires, that member may sit until a new member is appointed; a member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of the term; and no member shall serve more than 2 consecutive full terms.

SECTION 5—CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION

The reported bill authorizes the following funding levels for the CPB: $310 million for FY 1994; $375 million for FY 1995; and $425 million for FY 1996. These levels will sustain the quality of services currently provided by public television and radio and will allow public television to help meet national education objectives through enhanced educational services. These funding levels also will allow public radio to pursue additional services for minority audiences, rural audiences, and audiences in currently unserved areas.

The Committee recognizes that Federal support for increased educational services and radio expansion is essential. Public broadcasting operates on a fraction of the budget available to its commercial counterparts (as exemplified by the fact that the entire public television system operated in 1989 on the same amount of money spent by commercial broadcasters to televise football and baseball), and its current funding levels from Federal and community sources are already fully committed to achieving local, State, and national expectations and mandates.

In this regard, the Committee is pleased that public broadcasters, in recent years, have been able to raise $5 to $6 additional to match each Federal $1 they have received, and also that overall funding from non-Federal sources has been increasing. However, the Committee also recognizes that the need for services provided by public broadcasters and the public's expectations from public service programming have been increasing even faster, despite the proliferation of other media choices.

Thus, significant Federal investment continues to be necessary for a thriving system of public broadcasting able to meet congressional and local mandates. In particular, Federal funds are critical for the development of new services, the seeding of innovative national and local programming, and the enhancement of educational services and the expansion of public radio service for which it is difficult (and often impossible) to attract private funds.

Commitment of Funds to Educational Activities and the Expansion of Radio Services

The reported bill authorizes increased funding levels to allow an expanded and innovative use of public telecommunications in addressing educational and social issues at local and national levels and to facilitate the expansion of public radio services.

With respect to education, the Committee is concerned that the Nation's economic future is threatened by the state of its educational system in a rapidly advancing technological society, given that educational deficiencies could be placing our Nation's industries at a competitive disadvantage with foreign countries.

In this regard, the Committee supports the efforts of the CPB and the public broadcasting stations to focus on increasing educational opportunities through existing and new telecommunications technologies. The increased authorization levels in the reported bill, in part, will fund an increased emphasis on and expansion of public broadcasting's role in education. In particular, the Committee supports the intention of the CPB and public television to increase the utilization of technology as an instructional development and distribution system to provide quality educational programs and services for subjects in areas such as foreign languages, advanced mathematics, and sciences—especially in those areas that have greater difficulty in hiring and training teachers. During the Committee's July 23, 1991 hearing it was made clear that public broadcasting is uniquely positioned to bring to the American people programming and cost-effective technologies in a manner that complements the Nation's education goals.

The Committee believes that these objectives can be accomplished through existing funding formulas, and therefore the reported bill does not change the funding mechanism by which funds flow to public television and public radio stations. Local communities therefore will have a central role in determining which programs and services best meet community needs.

The public broadcasting stations are pursuing new educational and expansion opportunities and have committed themselves to raising the additional funds needed to complement the Federal investment. The success of the education and information services the stations seek to expand (including community outreach efforts) has been due, in large part, to the effective partnerships the stations have established with their local communities. The Committee believes that the stations, as local community institutions responsible to their local communities, are the most appropriate entities to determine how best to serve local citizens.

However, the Committee is aware of the value of collective action or national programs. A heavy emphasis should continue to be placed on the production and distribution of national programming. A portion of the increased funds can be used best by being aggregated for cooperative programs at the regional and national level. The entire public broadcasting community should work closely together to explore all available options and to use the Federal funding in ways that will ensure maximum community impact.

A great degree of cooperation and innovation will be necessary to realize the expectations and intent to the Committee with regard to public television's enhanced education service and the expansion of radio services. There has been such cooperation and innovation, as exemplified by the recent history of effective consultation between stations and the CPB which has resulted in mutual and voluntary agreement on assembling, allocating, and administering funds, such as: the revision to the manner in which the CPB funded national radio production, later codified in statute; the joint effort to determine how to allocate the satellite replacement fund between television and radio; and the recently concluded agreement among PBS, the CPB, and the public broadcasting stations to restructure the funding process for national television programming. Each of these examples effected outcomes which were of sub-

stantial interest to the Committee and which were worked out within the industry in ways that met the Committee's criteria for accountability and equity as well as the industry's interests in effectiveness. Such cooperation and innovation should continue.

Allocation of Radio Support

The reported bill also reflects the importance of public radio's service to unserved and underserved audiences. Public radio has made progress since 1988 to expand its reach to unserved and underserved audiences. Policy change at NPR and the CPB are helping more rural and minority stations to join the national system. NPR and its member stations have instituted policies that enable minority, rural, and small stations to receive NPR programming at greatly reduced costs. Increased financial support for stations serving minority and rural audiences is crucial to public radio's goals of diversifying its audience and of extending service to the 14 percent of the population not currently receiving a public radio signal.

With respect to the allocation of such funds, the Committee believes that the CPB, NPR, and the public radio community are committed to a serious examination of the many issues regarding the distribution of radio dollars. The existing formulas have served the system well for a number of years. Given the new emphasis on expansion of service to unserved and underserved audiences, it is an appropriate time to review the formula and make sure that it supports the objectives outlined to the Committee during its July 23, 1991, hearings. The ongoing review of the CSG program presents the CPB with the best opportunity in many years to maintain the continued viability of existing stations and to provide additional support to stations serving rural and minority audiences.

While some witnesses at the Committee hearings requested a specific statutory formula for radio funds, the Committee has decided that it would be premature to do so before the CPB and the public radio community have completed the review of this and other important issues. The Committee believes that some change in the radio allocation fund formula and existing priorities for use of CPB discretionary funds is necessary, but the exact dimensions of any change will not be clear until the CPB has completed a full review of all the issues raised. The CSG review process is the best way to determine the appropriate allocation of radio funds.

When conducting this review, the Committee urges the task force to reexamine the current criteria for allocating incentive grants to consider more than simply the dollar amount of non-Federal financial support raised. Factors such as the level of community support, the demographic and economic makeup of a community, penetration of the target audience, and the number of those receiving the signal who actually contributed may be additional appropriate indicators of the value the community attaches to the service. The total amount of non-Federal financial support raised should be evaluated in light of the available community resources. One example of such an evaluation could be the per capita contribution in a station's service area, rather than simply the total dollar amount raised.

Further, the Committee recognizes that many communities which depend on public radio express their support through volun-

teer work and in-kind contributions, both of which should be evaluated in the CPB review process.

In addition, the CPB and the task force should look at the percentage of Federal dollars in the station budget and the relative importance of those dollars. For example, stations in markets that can contribute a million dollars or more may be less dependent on the Federal investment than stations in areas with an economic base unable to support a station at that level. At some point, the Federal contribution to a station may reach a point of diminishing returns.

In addition to the distribution formula, there are many other important issues to be addressed in this review. The review should study all financial criteria, valuation of volunteers, ways to channel resources to stations serving minority and rural audiences and those in communities that cannot support a full service station, and the extent to which the grant programs further congressional objectives.

In addition, the CPB should review carefully the allocation of discretionary funds to maximize assistance to radio stations serving rural and minority audiences.

The CPB should complete this process for reviewing public radio's CSG criteria in an expeditious manner. The Committee would hope to see any recommendations resulting from this review implemented in FY 1993. With the funding levels provided in this legislation, the CPB can address the needs of the existing stations, provide for expansion in needed areas, the effectuate a real difference in the quality of services to rural and minority audiences. The Committee intends to monitor the results of the review process closely.

Additional funds needed for rural and minority radio stations

The Committee believes that while the CPB's Sole Service Grant Program has begun to address the need to provide service to rural areas, it has become clear that this program is not adequate to meet the demonstrated needs of unserved and underserved audiences. The program description is too narrow and the financial contribution too small.

The Committee encourages the CPB, as a part of the CSG review, to modify the Sole Service Grant Program to fund these stations at the base grant level. In addition, financial support should be provided to ensure that sole service stations have access to national programming.

The Committee also was concerned to learn of the present requirements for sole service stations, in particular the requirement that these stations broadcast a minimum of 12 consecutive hours 6 days a week for 52 weeks each year. Sole service stations provide a unique service to communities in their broadcast areas, and the specific criteria established by the CPB for these grants may not permit the necessary flexibility for these stations to best serve the needs of their communities. In some cases, for example, it may make sense for a station to provide 12 nonconsecutive hours of service in a given day, or 18 hours one day and 6 hours the next. The present criteria should be modified to increase the flexibility of requirements for stations in this category, with the goals of improv-

ing local coverage and increasing service to unserved areas clearly in mind. The CPB also should explore whether there are stations in rural areas that may be the sole source of local programming and therefore should not lose their funding simply because a distant signal becomes available to a community through a repeater or other arrangement.

New radio programs for diverse audiences

Public radio is known for the quality of its programming. Public radio's commitment to in-depth news coverage has become even more important in an era of "sound-bite" broadcast journalism. Public radio performance offerings are experimenting with multicultural formats that are more responsive to America's changing demographics.

The Committee considered making changes in the allocation of radio funding for national programming to direct more money into the production of multicultural programming. However, the reported bill includes no such changes because the public radio community has demonstrated its commitment to develop new, national programming for unserved and underserved audiences. In addition, public radio has recognized the need to judge this new programming by its success in reaching a significant portion of its intended audiences, not merely by its station carriage.

Training

Training and professional development are essential for fostering diversity and are vital to the continuation of quality public broadcasting. Public broadcasting has long served as an entry point for persons interested in a career in broadcasting, and has been particularly important for women and minorities. The continuation of training opportunities is essential if the present diversity and richness of our public broadcasting system are to be maintained and expanded.

CPB can make a major contribution to the efforts of the Committee to foster diversity and opportunities in the public broadcast system by using a portion of its system support funds over several years to implement a comprehensive training and recruitment program for the public radio system. In developing this program, CPB should consult with large and small stations, both rural and urban, independent producers, minorities, technical personnel, and other groups involved in the delivery of public broadcasting services. In this process, the CPB should keep in mind the needs of stations serving rural and minority audiences.

Programming Addressing the Needs of Minorities and Other Underserved Audiences

In the Public Telecommunications Act of 1988 (P.L. 100-626), the 1988 CPB Authorization Legislation, the Committee restated its commitment to ensuring that CPB resources are allocated to support programming addressing the needs of minorities. In response to this restatement, the CPB created the Minority Program Fund and allocated $3 million to that fund. However, the CPB's funding of the Minority Consortia has remained stagnant at $800,000 de-

spite the Committee's Report in 1988 (S. Rept. 100-444) that is believed that level to be too low.

The Minority Consortia consists of five separate groups (representing African-Americans, Hispanics, Native Americans, Asians, and Pacific Islanders). The Committee believes that there continues to be a need to increase substantially the funding allocated to the Minority Program Fund and to the Minority Consortia. There are 30 million African Americans, 22 million Hispanics, 2 million Native American Indians, and 7 million Asians in America today. These groups constitute close to 25 percent of the population of the United States. Further, this percentage is increasing at a rapid rate.

Thus, the need for programming addressing those audiences, including foreign language programming, should be a primary concern of public radio and television stations and the CPB. The appropriations to the CPB have increased significantly in recent years, and the Committee expects the CPB and the stations to increase their commitment to programs addressing the needs of minorities.

The CPB also should ensure that the Minority Consortia and other minority groups have a voice in the administration of the Minority Program Fund. It has been recommended that the Minority Program Fund should be administered by the Minority Consortia in consultation with the CPB. While the Committee is not mandating that change, the Committee urges the CPB to explore what can be done to ensure meaningful representation by the Consortia in the Minority Program Fund's decisionmaking process.

With respect to other underserved audiences, in the Public Telecommunications Act of 1988, Congress directed the CPB to provide funding to an independent productions service. Congress created this service in the hope that it would provide increased access to the public broadcasting system for independent producers and promote greater innovation and diversity of opportunity and expression in the programming supported by the CPB and made available to the public.

The new service was incorporated in 1989 as the Independent Television Service (ITVS). The CPB advanced a total of $1.178 million in start up funding and to cover preoperational expenses through March 1991. In addition, in June 1991, the CPB and the ITVS entered into contracts to provide $22 million to cover production funding and administrative expenses for FY 1990-92.

The Committee recognizes that the ITVS service is still in its infancy, and that, due to circumstances beyond the control of the ITVS, it has not actually awarded any programming grants. However, the Committee expects that, as the CPB's appropriations levels increase, the CPB support for the ITVS also will increase substantially. The Committee does not, however, expect the CPB to provide increased funding in the event that the ITVS does not disburse its current funding allocations in a responsible manner. It is the responsibility of the CPB to ensure that funds expended on public telecommunications are expended in a manner that will result in the development of high-quality programs for and by public broadcasting.

The CPB also must meet its obligation to encourage program diversity by devoting a fair amount of funding to programming addressing the lives and concerns of the American worker. While some programming aimed at working Americans may consist of general audience and children's programming, the Committee believes that there is also a need for programming of specific interest to the adult American worker.

Programming Addressing the Needs of the Deaf and Hearing Impaired

The Committee understands that the CPB currently requires in its programming grants that all programming produced with CPB funds is to be accessible to the individuals who are deaf and hearing impaired. The Committee is also aware that stations covering unexpected events, such as the Persian Gulf war, do not always have the resources on hand to ensure that those programs are accessible to the deaf and hearing impaired. Accordingly, the Committee recommends that the CPB make funds available out of its emergency fund or similar resources to enable the captioning of emergency or unplanned public television broadcasts and coverage of events of national importance.

SECTION 6—REPEAL

This section eliminates paragraph (4) of section 396 (*l*) of the 1934 Act. This amendment is technical in nature since the eliminated provisions terminated by their own terms several years ago.

The provisions being repealed prohibited the CPB from distributing funds to NPR unless a series of financial accounting conditions were met, and required a report to relevant Congressional committees on actions taken by NPR and the CPB. Subparagraph (C) stated that the reporting and other requirements of paragraph (4) would cease to be effective when the CPB certified to the appropriate Congressional committees that NPR's indebtedness, related to deficits accumulated before October 1, 1983, had been liquidated in full.

On September 30, 1986, NPR made a final repayment to the CPB of amounts loaned to it under a loan agreement dated August 2, 1983. On that same date, the CPB informed NPR that it considered the loan agreement to be terminated and certified to the chairmen of the relevant Senate and House committees that the indebtedness had been liquidated in full. Since subparagraph (C) expressly provides that the requirements would cease to be effective upon certification to the congressional committees, these provisions have not been operative since 1986.

In addition, the additional accounting mechanisms mandated are no longer necessary. NPR regularly makes available to the CPB copies of its quarterly financial statements, audited end-of-year financial statements, and materials for each NPR Board meeting. When NPR receives a grant from the CPB for a particular project, it is subject to the same terms and conditions for financial arrangements applicable to any other entity which enters into an agreement with the CPB.

SECTION 7—ELIMINATION OF REQUIREMENTS FOR COMMUNITY ADVISORY BOARDS

Section 396(k)(8) of the 1934 Act requires public radio and television stations licensed to community groups to establish a community advisory board. The community advisory board requirement was established for all public broadcast stations in the Public Telecommunications Financing Act of 1978 (1978 Act), and was adopted in conjunction with requirements for open board meetings and publicly available financial reports to improve pubic participation and accountability. The community advisory boards were intended specifically to advise the stations on programming and service needs of the community and review the stations' program and policy goals. See H.R. Rept. 95-1178, 95th Cong., 2d Sess. (1978).

The issue of the community advisory board was reviewed in 1981. The Senate-passed bill, S. 720, containing amendments to the 1967 Act, would have deleted the requirement that public television and radio stations establish community advisory boards. In contrast, H.R. 3238, the corresponding House-passed bill, retained this requirement with some clarification. The conference agreement, without explanation, eliminated the advisory board requirement for stations owned and operated by a State, a political or special purpose subdivision of a State, or a public agency, but retained the requirement for community licensees—those not owned or operated by a State, its subdivision, or a public agency.

The reported bill eliminates the community advisory board requirement for community licensees. The original purposes behind the community advisory boards are sufficiently served by other statutory requirements and operational realities, and thus the requirement is unnecessary.

More specifically, community licensees are by definition operated by community organizations. Thus, the requirement for a second community advisory group is unnecessary and redundant. The 1978 Act's original goals of public participation and accountability are being adequately served by the open meeting and financial disclosure requirements. The governing board of all public broadcast stations is currently subject to open meeting requirements (section 396(k)(4) of the 1934 Act) and public examination of financial records (section 396(k)(5) of the 1934 Act). These public access obligations have been and will continue to be effective in assuring station accountability to community concerns.

In addition, one of the stated purposes for the community advisory boards—to assess community needs—is an FCC requirement. The FCC requires all broadcast stations to maintain a quarterly "community issues list" which details the most significant programming responsive to specified community needs and interests. The station's license renewal is based, in part, on demonstrating the relevance and responsiveness of this programming.

Furthermore, station accountability to local communities is directly measured by listener and viewer contributions. Indeed, the majority of support for public broadcast stations is received from public contributions. Moreover, station responsiveness to the community is aided by the requirement of section 396(k)(3)(B)(i) of the 1934 Act that the CPB fund public television and radio programs

produced by independent producers, producers of national children's educational programming, and producers of programs addressing the needs and interests of minorities, as well as programs in languages other than English. This requirement expands the diversity and innovation of programming available to communities served by public broadcast stations.

Finally, the determination by Congress several years ago that community advisory boards are unnecessary for State licensees, which have less community involvement on their boards than community licensees, certainly supports elimination of the requirement for community licensees, which are community-based nonprofit educational organizations.

For all these reasons, the Committee believes that there are sufficient regulatory and operational mechanisms in place to ensure that community-based public broadcast stations meet the programming and service needs of their community of license without the added requirement of a community advisory board.

SECTION 8—CONTENTS OF ANNUAL REPORT

This section amends section 396(i)(1) of the 1934 Act to require that the CPB Annual Report list all the programming grants awarded by the CPB and specify the name of the awardee, the producer of the program, the title or a description of the program, and the amount of the grant. The inclusion of this additional information will facilitate the process of determining whether CPB is in conformance with its congressional mandate requiring balanced programming. While this requirement only binds those programs directly funded by CPB, it will serve as a primary source of information for future consideration of the fulfillment of the balanced-programming requirement.

SECTION 9—GRANT DISTRIBUTION CRITERIA

This section amends section 396(k)(6)(B) of the 1934 Act to reinstate the requirement that the periodic review of the criteria for the distribution of CGSs by the CPB is to be done in consultation with public broadcasting licensees and their representative organizations. The Committee intends for this review to be extensive and systematic in order to assure that all stations have an opportunity to express their concerns and interests. The issues raised before the Committee during its July 23, 1991, hearings emphasized the need for the industry's own practices to include, as an integral and necessary part, consultation with stations which can convey the needs of the communities they serve. This process of consultation would strengthen all the deliberations of the CPB, not just the reevaluation of grant criteria.

This consultation requirement was dropped inadvertently from the 1934 Act upon passage of the Public Telecommunications Act of 1988. However, since that time, the CPB has continued to consult with public radio and television on all matters involving grant criteria. In fact, the CPB currently is conducting an extensive consultative review of the grants programs with a wide range of individuals and organizations throughout public broadcasting. The Committee supports the CPB in this effort and its recognition of the

value of obtaining as much input as practicable before determining which changes are necessary to serve best the public interest. The reinstatement of this requirement in the statute reflects the Committee's endorsement of CPB's ongoing policy of consultation and the need to maintain that policy during prospective reviews.

SECTION 10—AUDIT REQUIREMENT FOR PUBLIC TELECOMMUNICATIONS ENTITIES

Subsection (a) amends section 396(*l*)(3)(B)(i) of the 1934 Act, which requires that all public telecommunications entities that receive CPB funds submit an audit that has been prepared by a independent public accountant. This section gives the CPB the authority to waive the independent audit requirement where the cost of such an audit would be excessive to the entity. For example, it might not be appropriate for the CPB to require an independent audit of a station where the station receives $10,000 from the CPB and the audit would cost $3,000. However, entities granted such a waiver would be required to submit a financial statement in place of the independent audit.

Subsection (b) corrects a technical error in the current law. The current law was intended to require audits once every 2 years by independent certified accountants of public telecommunications entities that receive funds from the CPB. However, the law as currently written requires these audits twice a year. This subsection amends current law by substituting "biennial" for "biannual".

SECTION 11—COMPENSATION OF OFFICERS

This section modifies section 396(e)(1) of the 1934 Act to permit the officers of the CPB to receive compensation for service on the boards of other organizations, subject to advance approval by the CPB Board of Directors and subject to the provisions of the CPB's Statement of Ethical Conduct. However, officers would not be able to sit on the board of directors of an organization that receives funds from the CPB. Currently, the 1934 Act prohibits officers of the CPB, except the Chairman and Vice Chairman, from receiving compensation from any outside sources.

SECTION 12—EFFECTIVE DATE

This section states that section 4(a) of this legislation, which reduces the number of CPB Board members, does not take effect until March 26, 1966. All the other provisions in the legislation would take effect on the date of enactment of the legislation.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

Section 391 of that Act

AUTHORIZATION OF APPROPRIATIONS

SEC. 391. There are authorized to be appropriated $40,000,000 for each of the fiscal years 1979, 1980, and 1981, $20,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, $12,000,000 for fiscal year 1984, $24,000,000 for fiscal year 1986, $28,000,000 for fiscal year 1987, $32,000,000 for fiscal year 1988, $36,000,000 for fiscal year 1989, $39,000,000 for fiscal year 1990, [and] $42,000,000 for fiscal year 1991, *$42,000,000 for fiscal year 1992, $42,000,000 for fiscal year 1993, and $42,000,000 for fiscal year 1994,* to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart. Sums appropriated under this subpart for any fiscal year shall remain available until expended for payment of grants for projects for which applications approved by the Secretary pursuant to this subpart have been submitted within such fiscal year. Sums appropriated under this subpart may be used by the Secretary to cover the cost of administering the provisions of this subpart.

Section 396 of that Act

DECLARATION OF POLICY

SEC. 396. (a) The Congress here by finds and declares and—

(1) through (6) * * *

(7) it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States; [and]

(8) public television and radio stations constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach program;

(9) it is the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and

[8] *(10)* a private corporation should be created to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control.

(b) * * *

Board of Directors

(c)(1) The Corporation for Public Broadcasting shall have a Board of Directors (hereinafter in this section referred to as the"Board"), consisting of [10] *(9)* members appointed by the President, by and with the advice and consent of the Senate. No more than [6] *(5)* members of the Board appointed by the president may be members of the same political party.

(2) The [10] *(9)* members of the Board appointed by the President (A) shall be selected from among citizens of the United States

(not regular full-time employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; and (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the Nation, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

(3) through (4) * * *

[5 The term of office of each member of the Board appointed by the President shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each.]

(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 4(c) of the Public Telecommunications Act of 1991. Any member whose term had expired may serve until such member's successor has taken office. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.

(6) through (7) * * *

(d) * * *

Officers and Employees

(e)(1) The Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No officer or employee of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code. No individual other than a citizen of the United States may be an officer of the Corporation. [No officer of the Corporation, other than the Chairman or a Vice Chairman, may receive any salary or other compensation from any source other than the Corporation for services rendered during the period of his employment by the Corporation.] *No officer of the Corporation, other than the Chairman or a Vice Chairman, may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, committees of such boards, and similar activities) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct.* All officers shall serve at the pleasure of the Board.

(2) * * *

(f) through (h) * * *

REPORT TO CONGRESS

(i)(1) The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this subpart and such recommendations as the Corporation deems appropriate;

(B) a comprehensive and detailed inventory of funds distributed by Federal agencies to public telecommunications entities during the preceding fiscal year; [and]

(C) a listing of each organization that receives a grant from the Corporation to produce programming, the name of the producer of any programming produced under each such grant, the title or description of any program so produced, and the amount of each such grant;

[C] *(D)* the summary of the annual report provided to the Secretary pursuant to section 398(b)(4).

(2) * * *

(j) * * *

Financing; Open Meetings and Fiancial Records

(k)(1)(A) * * *

(B) * * *

(C) There is authorized to be appropriated to the Fund, for each of the fiscal years 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, [and 1993] *1993, 1994, 1995, and 1996,* an amount equal to 40 percent of the total amount of non-Federal financial suport received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $180,000,000 for fiscal year 1981, $200,000,000 for fiscal year 1982, $220,000,000 for fiscal year 1983, $145,000,000 for fiscal year 1984, $153,000,000 for fiscal year $162,000,000 for fiscal year 1986, $200,000,000 for fiscal year 1987, $214,000,000 for fiscal year 1988, $238,000,000 for fiscal year 1989, $254,000,000 for fiscal year 1990, $245,000,000 for fiscal year 1991, $265,000,000 for fiscal year 1992, [and] $285,000,000 for fiscal year 1993, *$310,000,000 for fiscal year 1994, $375,000,000 for fiscal year 1995, and $425,000,000 for fiscal year 1996*

(D) * * *

(2) through (5) * * *

(6)(A) * * *

(B) The Corporation shall make a basic grant from the portion reserved for television stations under paragraph (3)(A)(ii)(I) to each licensee and permittee of a public television station that is on the air. The Corporation shall assist radio stations to maintain and improve their service where public radio is the only broadcast service available. The balance of the portion reserved for television stations and the total portion reserved for radio stations under paragraph (3)(A)(iii)(I) shall be distributed to licensees and permittes of such stations in accordance with eligibility criteria *(which the Corporation shall review periodically in consultation with public radio*

and television licensees or permittees, or their designated representatives) that promote the public interest in public broadcasting, and on the basis of a formula designed to—

(i) provide for the financial needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

(iii) assure that each eligible licensee and permittee of a public radio station receives a basic grant.

(7) * * *

[(8)(A) Funds may not be distributed pursuant to this subpart to any public broadcast station (other than any station which is owned and operated by a state, a political or special purpose subdivision of a state or a public agency) unless such station establishes a community advisory board. Any such station shall undertake good faith efforts to assure that (i) its advisory board meets at regular intervals; (ii) the members of its advisory board regularly attend the meetings of the advisory board; and (iii) the composition of its advisory board are reasonably representative of the diverse needs and interests of the communities served by such station.

[(B) The board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. The board may also be delegated any other responsibilities, as determined by the governing body of the station. The board shall advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and cultural needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs.

[(C) The role of the board shall be solely advisory in nature, except to the extent other responsibilities are delegated to the board by the governing body of the station. In no case shall the board have any authority to exercise any control over the daily management or operation of the station.

[(D) In the case of any public broadcast station (other than any station which is owned and operated by a state, a political or special purpose subdivision of a State, or a public agency) in existence on the effective date of this paragraph, such station shall comply with the requirements of this paragraph with respect to the establishment of a community advisory board not later than 180 days after such effective date.

[(E) The provision of subparagraph (A) prohibiting the distribution of funds to any public broadcast station (other than any station which is owned and operated by a State, a political or special purpose subdivision of a State, or a public agency) unless such station establishes a community advisory board shall be the exclusive remedy for the enforcement of the provisions of this paragraph.]

[(9)]*(8)* Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization) unless assurances are provided to the Corporation that no officer or employee of the Public Broad-

casting Service or National Public Radio (or any successor organization), as the case may be, will be compensated at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code, and unless further assurances are provided to the Corporation that no officer or employee of such an entity will be loaned money by that entity on an interest-free basis.

[10]*(9)*(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Satellite Interconnection Fund (hereinafter in this subsection referred to as the "Satellite Interconnection Fund"), to be administered by the Secretary of the Treasury.

(B) There is authorized to be appropriated to the Satellite Interconnection Fund, for fiscal year 1991, the amount of $200,000,000. If such amount is not appropriated in full for fiscal year 1991, the portion of such amount not yet appropriated is authorized to be appropriated for fiscal years 1992 and 1993. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 1991 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made.

(D) Notwithstanding any other provision of this subsection except paragraphs (4), (5), [(8), and (9)], *and (8),* all funds appropriated to the Satellite Interconnection Fund and interest thereon—

(i) shall be distributed by the Corporation to the licensees and permittees of noncommercial educational television broadcast stations providing public telecommunications services or the national entity they designate for satellite interconnection purposes and to those public telecommunications entities participating in the public radio satellite interconnection system or the national entity they designate for satellite interconnection purposes, exclusively for the capital costs of the replacement, refurbishment, or upgrading of their national satellite interconnection systems and associated maintenance of such systems; and

(ii) shall not be used for the administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.

Records and Audit

(l)(1) * * *

(2) * * *

(3)(A) * * *

(B) Each public telecommunications entity receiving funds under this subpart shall be required—

(i) to keep its books, records, and accounts in such form as may be required by the Corporation;

(ii) *(I)* to undergo a [biannual] *biennial* audit by independent certified public accountants or independent licensed public

accountants certified or licensed by a regulatory authority of a State, which audit shall be in accordance with auditing standards developed by the Corporation, in consultation with the Colmptroller General; [and] *or*

(II) to submit a financial statement in lieu of the audit required by subclause (I) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and

(iii) to furnish [biannually] *biennially* to the Corporation a copy of the audit report required pursuant to the clause (ii), as well as such other information regarding finances (including an annual report) as the Corporation may require.

(C) through (D) * * *

[(4)(A) Subject to subparagraph (C), the Corporation may not distribute to National Public Radio any funds authorized to be appropriated by this Act unless there is in effect a determination by the Corporation that—

[(i) National Public Radio has adopted and is implementing a system of financial controls and procedures devised in consultation with, and recommended by, an independent certified public accountant and determined by the Comptroller General as sufficient to assure that the financial transactions of National Public Radio reflect prudent management practices and are accounted for in a manner consistent with generally accepted accounting principales;

[(ii) National Public Radio has adopted a budget under which reasonably projected expenditures will not exceed reasonably prjected revenues from all sources for any fiscal year in which such funds are distributed to National Public Radio; and

[(iii) financial reporting systems of National Public Radio provide the Corporation with continuous access to all financial books and records of National Public Radio.

[(B) Not later than fifteen days after the date of the enactment of this paragraph, the Corporation shall report to the appropriate committees of the Congress on actions taken by National Public Radio to meet the conditions described in subparagraph (A) and on actions taken by the Corporation with respect to the indebtedness of National Public Radio related to deficits accumulated before October 1, 1983. The Corporation shall certify to such committees when such conditions have been met.

[(C) The requirements of subparagraphs (A) and (B) shall cease to be effective on and after the date on which the Corporation certifies to the appropriate committees of Congress that all indebtedness of National Public Radio related to deficits accumulated before October 1, 1983, has been liquidated in full.]

(m) * * *

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